



PLANNING COMMISSION STAFF REPORT MAY 11, 2006

Project:	NORTHERN CALIFORNIA FIRST BAPTIST CHURCH- (PLN2006-00009)
Proposal:	To consider a Conditional Use Permit to allow the construction and use of a new 53,014 square foot religious facility, consisting of a 686 seat assembly hall, a gymnasium/multi-purpose room, classrooms, and dining room.
Recommendation:	Approve, based on findings, subject to conditions.
Location:	4130 Technology Place in the Industrial Planning Area. APN(s) APN 525-1250-065-00 and a portion of 525-1250-064-00 (See aerial photo next page)
Area:	53,014 square foot proposed building on a 3.49-acre lot
People:	Northern California First Baptist Church, Applicant Jerry Willis, Architect and Agent of Applicant Ron Reese, Engineer Kirk Morton, Landscape Architect BSK Associates, Geotechnical Engineering Consultant Blymer Engineers, Inc., Offsite Risk Assessment Consultant Balch Enterprises, Inc., Owner Clifford Nguyen, Staff Planner (510) 494-4769; cnguyen@ci.fremont.ca.us
Environmental Review:	A Mitigated Negative Declaration has been prepared and circulated for the project.
General Plan:	General Industrial
Zoning:	S2005-305, Interim Study District

EXECUTIVE SUMMARY:

In November 2005, the City Council adopted an Interim Study District (ISD) on portions of land adjacent to Auto Mall Parkway to permit controlled development of the area and allow staff the time to undertake a detailed land use study. The ISD is an area in transition: industrial uses in the area are converting and/or redeveloping into a comprised mix of commercial and retail uses. Based on the City Council's direction in response to these changes, certain assembly uses—such as a religious facility—can also be considered in the ISD, subject to the approval of a Conditional Use Permit and compliance with several specific requirements. The applicant, Northern California Baptist Church (presently located in Union City, hereinafter "Applicant"), requests approval to allow the construction and use of a new 53,014 square foot facility on a 3.49-acre site in the ISD to complete its relocation efforts into a larger and new facility in Fremont. The new facility is proposed in two phases: Phase I (33,651 s.f.) will accommodate a sanctuary of 686 seats, a large gym/multi-purpose room, kitchen and several Bible study classrooms; and, Phase II (19,363 s.f.) will accommodate a large dining room area and additional classrooms. Staff recommends approval of the Conditional Use Permit, as conditioned.



Figure 1: Aerial Photo (2002) of Project Site and Surrounding Area.



SURROUNDING LAND USES:

- North: Residential
- South: Commercial/Industrial
- East: Commercial/Retail
- West: Commercial/Industrial

BACKGROUND AND PREVIOUS ACTIONS:

In November 2005, the City Council adopted an Interim Study District (ISD), rezoning the project site from General Industrial to Interim Study District. The ISD controls development by permitting only certain uses and General Industrial District uses which do not exceed the quantities and types of hazardous materials permitted in the Light Industrial District. With the adoption of the ISD, temporary control is exercised to prevent any changes in land use that may be inconsistent with the formulation of the subsequent plan and precise zoning for the study area. ISD contains the additional land uses that are appropriate for consideration into the future General Plan Amendment and Rezoning of the study area, as well as it sets restrictions on the amount of hazardous materials permitted. The 3.49-acre project site is located in the ISD.

Except for site maintenance (weed abatement in accordance with Fire regulations) and the use of the site occasionally for temporary overflow parking for an adjoining recreation facility ("City Beach"), there are no other records and/or previous actions associated with the project site.

PROJECT DESCRIPTION:

The Applicant proposes a Conditional Use Permit (CUP) to allow the construction and use of a new 53,014 square foot religious facility. The new facility, defined as a type of an "assembly use", will accommodate a religious use with ancillary uses, including a gymnasium for recreational sports, classrooms for religious studies, and a large dining room. Approval of the CUP will allow the Applicant to relocate its growing congregation to a new and much larger facility in Fremont.

The project proposal is summarized, as follows:

Site and Building Design Proposal

The Applicant proposes the development of the religious facility in two phases largely due to financial constraints as well as other circumstances (See Exhibit "A"). Whereas the development of Phase I is proposed to commence following an approval, Phase II is projected for completion in four years, with a maximum time frame of five years. However, the Applicant indicates that if circumstances allow, the construction of the proposed Phase II can be completed much earlier. Nonetheless, the approval of both phases are requested in this application, as follows:

Phase I:

1. A building area totaling 33,651 square feet on two levels to include a main lobby, a sanctuary of 686 seats, baptismal stage, gym/multi-purpose room, kitchen, 23 Bible study classrooms, a pastor room, a choir room, two main restrooms on each floor and associated storage/accessory rooms.
2. Associated site and parking improvements including new canopy trees, shrubs, groundcover, bio-swales (for on-site stormwater treatment), walkways, etc.
3. New right-of-way improvements including new curb, sidewalk and street trees.
4. A temporary lawn area and walkways to be replaced with Phase II below.

Phase II:

5. A two-level, 19,363 square foot addition to the 33,651 square foot Phase I building to include a large dining room and 23 additional Bible study classrooms. The construction of the addition will replace the temporary lawn proposed in Phase I.
6. Conforming landings, walkway extensions and minor modifications to planter areas are included to appropriately connect to improvements proposed in Phase I.

Religious Facility Operations Proposal

The proposed religious facility has three main functions and several ancillary uses. The proposed prayer/worship services, Bible study, and fellowship/sport activities serve as the main functions, while ancillary uses include: religious performances, Baptisms, counseling, funerals, banquets/dinners and other related activities. The Applicant does not propose a private school now or in the future (Informational 1), and it believes that the proposed uses will not cause an impact on adjacent users or hazards to its members and the public.

The following table summarizes the proposed "Schedule of Operations" (Exhibit "C"). The proposed three main functions are categorized by function, location and general time of use.

DAY	SANCTUARY (prayer/worship service¹)	GYM (fellowship/ sport activities²)	CLASSROOM (Bible study³)
MON	5:30 a.m. – 7:00 a.m.	3:00 p.m. – 7:00 p.m.	--
TUE	5:30 a.m. – 7:00 a.m.	3:00 p.m. – 7:00 p.m.	--
WED	5:30 a.m. – 7:00 a.m. 8:00 p.m. – 9:30 p.m.	3:00 p.m. – 7:00 p.m.	7:00 p.m. – 9:30 p.m.
THUR	5:30 a.m. – 7:00 a.m.	3:00 p.m. – 7:00 p.m.	--
FRI	5:30 a.m. – 7:00 a.m. 7:00 p.m. – 8:00 p.m.	3:00 p.m. – 7:00 p.m.	7:00 p.m. – 8:00 p.m.
SAT	5:30 a.m. – 7:00 p.m.	3:00 p.m. – 7:00 p.m.	9:00 a.m. – 3:00 p.m.
SUN	5:00 a.m. - 12:30 p.m. 2:00 p.m. - 3:30 p.m.	9:00 a.m. – 12:30 p.m. 12:45 p.m. – 2:15 p.m. 3:00 p.m. – 9:00 p.m.	9:00 a.m. – 12:30 p.m. 2:00 p.m. – 3:30 p.m.

- 1) Prayer/worship services: morning daily 100 to 150 persons; on Sunday noon worship 200 to 300 persons.
- 2) Fellowship/recreational activities: 50 to 100 persons; Friday afternoon and Sunday up to 250 persons
- 3) Bible study: Wednesday afternoon 200 to 300 persons; Friday 100 to 150 persons; and, Saturday and Sunday 100 to 400 persons.

PROJECT ANALYSIS:

General Plan Conformance:

While staff is in the process of evaluating a General Plan Amendment for the area included in the Interim Study District (ISD), the existing General Plan land use designation for the area and project site is currently General Industrial. The General Industrial land use designation permits certain non-industrial land uses, and "assembly uses" within the ISD, implemented through the Conditional Use Permit process. The project is consistent with Land Use Policy 3.2, which states that other uses may be allowed which achieve the intent of the General Plan, i.e., the proposed religious facility is a non-industrial use that can be considered in the ISD as a conditional use on the project site with convenient freeway access (from both I-680 and I-880) and is found compatible with adjacent users. The 3.49-acre project site is sufficiently large enough to provide adequate circulation areas and parking to accommodate the proposed 53,014 square foot facility. In addition, although the project site currently has an underlying General Industrial land use designation, the quantities and volumes of hazardous material permitted within the ISD were reduced to the levels allowed within the Light Industrial (I-L) District. This reduces the potential land use conflicts between the proposed use and future industrial uses.

Zoning Regulations:

Pursuant to Article 16.7 [Interim Study District] of the Fremont Municipal Code (FMC), the Planning Commission is authorized to consider approval a Conditional Use Permit (CUP) for such a religious facility in the Interim Study District (ISD) if, based on substantial evidence, the proposed use is found to be consistent with surrounding uses and does not cause a significant hazard to the public or environment. Staff finds that the applicant has fulfilled the initial requirements in implementing a design and program that is able to meet general and special regulations pertaining to assembly uses in the Interim Study District. The analysis that follows highlights the definitions, standards and procedures in which the Applicant is required to acknowledge, implement and maintain compliance.

Assembly Use and Sensitive Populations: The new proposed facility is considered an "assembly use" and may include "sensitive populations" at any given time. These two terms are defined:

"Assembly use"

*An "assembly use shall mean a use where fifty or more persons gather together for such purposes as deliberation, education, instruction, **worship**, entertainment, amusement, or similar purposes (Sec. 8-2107.3.5).*

"Sensitive populations"

"Sensitive populations" shall mean children under the age of 16 years old, non-ambulatory persons, or adults with mental or physical disabilities, requiring specialized care or supervision, with a particular emphasis on such children and adults who may have difficulty understanding and executing directions or orders, as well as such persons with mobility limitation, or increased sensitivity to hazardous materials (Sec. 8-2190.5.1.5).

Application of Special Requirements: Article 16.7 [Interim Study District], Sec. 8-21673 [Applications for assembly type uses] of the FMC contains special provisions that are in addition to the requirements outlined in Article 25 [Conditional Use Permits]. The aim of these special provisions is allow staff to

complete a thorough review and analysis of the proposed assembly use and notify landowners and tenants of the use earlier in the process to receive input. These provisions are, as follows:

- 1) *The applicant shall provide a written description of the proposed operation of the use, including but not limited to the total number of occupants anticipated; a statement as to whether or not any "sensitive populations" will be involved in any activities; the type of activities proposed both as a main use or as an accessory use.*

The Applicant provided a written description of the proposed operation of the use and, as recommended by staff, provided an easy-to-follow schedule matrix showing day, time, location of each activity (Exhibit "C"). A statement was also provided indicating that "sensitive populations" would be involved in activities at the proposed facility. As previously summarized in the "Project Description", the type of activities proposed as both main and ancillary uses were provided. The Applicant indicates that the classrooms proposed on the first floor level and areas closest to egress utilized for Bible study will be prioritized to accommodate sensitive populations. Other measures are implemented as indicated below.

- (b) The applicant shall submit written verification to the City, obtained through consultation with the City of Fremont Fire Department Hazardous Materials Division that at the time of application submittal, there are no incompatible hazardous occupancies (uses) located on, or immediately adjacent to, the subject site. If after consulting with the Hazardous Materials Division it is determined that the proposed location is on or immediately adjacent to an existing hazardous materials facility in excess of Range 1, with Group A chemicals, or in excess of Range 3 with Group B or C chemicals as outlined in Sec. 8-22143.3 High Intensity Hazardous materials uses, then the applicant shall complete a thorough technical evaluation to determine if there are engineering or administrative controls available to mitigate the impacts of a hazardous materials release, as well as any evacuation or shelter-in-place programs to which the proposed assembly type use should adhere.*

The Applicant met with the Fire Department and obtained direction on the preparation of an offsite risk assessment report. Blymer Engineers, Inc., prepared an offsite risk assessment report for the proposed project. The report evaluated the potential health and safety risks to individuals from the exposure to hazardous materials that may occur at the project site due to its location in the Interim Study District, adjacent to industrial users. The February 2006 report identified two businesses within a 0.25-mile radius of the project site as posing a potential offsite risk. The known hazardous materials used by these two businesses are anhydrous ammonia, liquid hydrogen and compressed hydrogen gas. Recommendations to reduce the potential offsite risk were provided, in which the Applicant has agreed to implement along with the Fire Department's recommendations. A detailed analysis of the recommendations, such as a site-specific emergency response plan, specific building enhancements, a consolidated "shutdown" of the ventilation systems and an in-place communication system for notifying or providing instructions to occupants, as well as mitigation measures (also made conditions of approval, Conditions 8 and 75) are contained in the Project Initial Study (Informational 2).

- 2) *The applicant shall acknowledge that the City shall notify property owners and tenants within 1000 feet of the subject site of the application within 30 days of receiving a complete application, in order to obtain initial input on the proposal.*

In March 2006, the City notified property owners and occupants within 1,000 feet of the project site (Informational 3), within the 30-day period called out in the provision. The purpose of this notice was to receive initial input (or concerns) regarding the proposal. Several comments were received from nearby residents who were all in support of the project and one letter in opposition from an adjacent industrial user immediately to the west. Staff has contacted this company as described in the later portion of this report (see "Public Notice and Comment").

- (d) *When an assembly use is located, or proposed to be located, in a multi-tenant building, an agreement that adequately provides for limitation of any subsequent hazardous material users on the same site shall be executed and recorded between the property owner, applicant, and the City.*

The proposed project site presently encompasses one entire legal vacant parcel and a portion of an adjoining vacant parcel. Balch Enterprises, Inc., presently owns both parcels. If the Planning Commission approves the application, the Applicant would proceed to process a Lot Line Adjustment (LLA) to reflect the 3.49-acre size of the project site and complete its purchase of the land from the present owner (Condition 39). However, a "Hazardous Materials Covenant and Agreement" will be recorded against both parcels to restrict their use of hazardous materials (Condition 9). This will ensure that the reduced vacant parcel as a result of the LLA and the newly enlarged 3.49 project parcel for the Applicant will not contain any hazardous materials in excess of levels permitted in the Light Industrial District¹.

- (e) *The applicant shall acknowledge through a written statement that they are locating within the industrial area and that higher levels of noise, traffic and exposure to hazardous materials can occur.*

The current property owners and Applicant acknowledge and understand that the Religious Facility is located in the Interim Study District, that is generally adjacent to industrial users in an area that is potentially susceptible to exposure to or migration of hazardous materials and/or waste. An "Acknowledge of Risk" statement will be recorded against the 3.49-acre Applicant parcel (Condition 10).

Parking:

The FMC contains a provision that sets the parking requirement for a religious facility, as follows:

Parking Standard for Religious facilities
1 space per 3 seats ¹ for facilities of <i>more than 150 seats not located on an arterial</i>

¹ Seating capacity in principal room or hall (e.g., sanctuary)

As the proposed facility contains more than 150 seats in the principal room (686 seats proposed) and is located on a site that has access from a collector street, Technology Place, the proposed project would require 229 spaces.

¹ Range 1 of Group A chemicals, or in excess of Range 3 of Group B or C chemicals, as set forth in Fremont Municipal Code Section 8-22143.3 "High Intensity Hazardous Materials Use".

Applicant's Proposed Parking Facility		
686 seats in sanctuary	Required Parking: 1 space per 3 seats	Proposed Parking
	686 seats X 1 space/3 seats = 229 ¹	230 spaces

¹ Per FMC, fractions of ≥ 0.5 are rounded to a whole space.

The applicant is required to maintain a minimum of 229 parking spaces (Condition 15).

Design Analysis:

Site Planning: The project site is bounded to the north by Auto Mall Parkway; to the east by commercial development (i.e., City Beach recreational facility) and Fremont Boulevard; to the south by Technology Place and industrial development; and, to the west by commercial/ industrial development. The project site is located in the City's Interim Study District (ISD) where an assembly use may be considered. The ISD is an area generally located within 500 feet of the centerline of Auto Mall Parkway where a transition of uses has occurred, from industrial to a mix of retail and commercial uses. The ISD is also an area that is adjacent to the General Industrial District where general industrial uses are permitted. For these reasons, assembly uses are conditionally permitted in the ISD, subject to compliance with specific regulations contained in the FMC.

The project site is encumbered by two large utility easements (PG&E high voltage overhead lines and an electric transmission easement in connection with the Hetch Hetchy Water Supply owned by the City and County of San Francisco) on its north side, traversing east to west, parallel with Auto Mall Pkwy., and occupying almost half of the 3.49-acre project site. While no structures are permitted in this area, the area will be paved to serve as parking with associated landscaping (including shorter trees) and bio-swales for stormwater treatment runoff. Other easements exist on the site, including a 20-foot wide landscape easement along Auto Mall Pkwy. and emergency vehicle access easements (EVAE). The EVAEs will be relocated to reflect the building and site layout (Condition 40). Consequently, the buildable area is focused on the south side of the subject parcel, adjacent to Technology Place. The proposed building layout is appropriately situated and the circulation system is designed to interconnect with joint access to a future parking facility for the vacant parcel adjacent to the west and City Beach to the east. This design eliminates the need for multiple driveways and excessive hardscape.

Architecture:

The proposed design of the building in both phases is rectilinear in shape in a form known as "concrete tilt-up". The architect proposes to apply a textured paint to the surface of the formed walls. The base of the structure is proposed in darker brownish color, its mid-portion in a light cream color (in two tones) and a lighter brown color at the its top portion (Informational 4). This color treatment breaks up the structure's massing into three parts: an anchoring base, mid-section and top. The horizontal "v"-shaped reveals (or scoring) further enhances this treatment. In addition, some raised bands and awnings are proposed around windows and fascia. A steeple housing a stair well flanks the right (west) side of the covered main entrance into the lobby.

Staff made recommendations on the project design which the applicant has been responsive, such as breaking up the buildings mass and increasing its articulation to avoid the appearance of a massive

unadorned "tilt-up block". To this end, however, staff recommends that the following to further enhance the project design:

- The heavier and darker color treatment (shown as "Chutney" on plans) should be applied in a larger area at the base to give the structure a stronger appearance of a more significant base (Condition 25).
- The architect should explore the possibility of including more vertical scoring ("v"-shaped reveals) to provide a stronger vertical appearance, consistent with the design of the steeple element (Condition 27).
- The color treatment applied to the screening element on the roof should be color treated to blend in with the color proposed at the top of the structure to be much less conspicuous, rather than darker as proposed (Condition 28).
- The structure's windows placement should all be recessed at least 4-inch, similar to the windows proposed on the wall at the main lobby entrance (Condition 29).
- The structure's window ledges should also be chamfered (beveled) similar with the windows proposed on the wall at the main lobby entrance (Condition 30).
- A cornice element, or other effective means, should be incorporated at the top of the structure's walls to provide stronger roof termination (Condition 31).
- The round stainless steel covered columns flanking the main entrance should be reevaluated in terms of shape for consistency with other elements of the structure. A square column should be considered (Condition 32).
- Stainless steel cladding or an alternative color treatment should also be considered for all awnings above doors and patio areas (Condition 33).
- All fire apparatus should be concealed internally, except for those components as approved by the Fire Department (Condition 35).

With the implementation of these refinements and any recommendations included by the Planning Commission, staff believes the project architecture will be consistent with the existing and future development of the Interim Study District.

Open Space/Landscaping:

A conceptual landscape plan is proposed with a variety of trees, shrub and groundcover. Staff has reviewed the landscape plan and finds it generally acceptable. Trees include: Birch, Chinese Pistache (within the 20-foot landscape easement adjacent to Auto Mall Pkwy.), Evergreen Pear (under the high-voltage utility lines), Water Gum, Crape Myrtle, among others. Street trees are also proposed as Purple Robe Locust. While the landscape plan shown is generally acceptable, a few modifications are recommended, as follows:

- All planter areas (generally at the ends of parking rows) must meet the City standards (FMC 8-22009) free of inorganic material and measuring not less than six feet wide (or 7 feet curb face to curb face). Assuming 0.5-foot wide curbs, plans show planter widths of 5 feet. These planters must be enlarged to meet this standard (Condition 58).
- The City's Landscape Architect is the final authority on approval of the proposed street tree selection (Purple Robe Locust shown) during the Development Organization process (Condition 53).

Circulation:

The project site is located between Auto Mall Parkway, to the north, and Technology Place, to the south. Vehicular access to the site is provided by two, joint access driveways on Technology Place. The eastern driveway exists and is shared by the City Beach development. The western driveway will be shared with a future building. On-site pedestrian access is proposed via walkways around the building, which connect to proposed sidewalk on Technology Place.

Both Auto Mall Parkway and Technology Place have partial improvements, which were completed through earlier subdivision developments and public works projects. The remaining required improvements are basically installation of sidewalk and street landscaping. In accordance with the Street Right-of-way and Improvement Ordinance, the project will install complete street improvements along the project frontage of both Auto Mall Parkway and Technology Place. Street improvements include, but are not limited to: installation of sidewalk, driveway, landscaping, street trees, and potential adjustment or relocation of utilities. The full extent of required street improvements will be determined prior to issuance of building permits.

Grading & Drainage:

The project site is currently vacant and the topography is flat. Grading for the project will consist of creating the building pad and contouring the parking lots to drain towards the storm drain system. The design includes several bio-swales that will provide storm water treatment before the storm water enters the public storm drain system. Bio-swales are proposed along the northern boundary, in the middle of the parking lot, and in front of the building (along Technology Place).

The current Alameda Countywide National Pollution Discharge Elimination System (NPDES) Municipal Stormwater Permit was issued in February 2003. The NPDES permit requires all new development to incorporate measures to prevent pollutants from being conveyed in storm water runoff and into the public storm drain system. The project intends to meet the quantitative storm water treatment requirements by constructing the bio-swales. Conditions of approval relating to storm water treatment requirements are included as part of the Conditional Use Permit.

Applicable Fees:

This project will be subject to Citywide Development Impact Fees. These fees may include fees for fire protection, capital facilities and traffic impact. All applicable fees shall be calculated and paid at the fee rates in effect at the time of building permit issuance.

Environmental Review:

An Initial Study and Draft Mitigated Negative Declaration have been prepared for this project. The environmental analysis identified concerns regarding potential impacts to hazards and hazardous materials, air quality, geology and soils, and hydrology/water quality. The Draft Mitigated Negative Declaration includes mitigation measures, which, if implemented, would reduce the identified impacts to non-significant levels. These mitigation measures have been included as conditions of approval for this project. A more detailed description of the potential impacts is provided within the Initial Study for the project, which is included as an enclosure. In addition, a Mitigation Monitoring Program is recommended for adoption in order to ensure implementation of mitigation measures.

The initial study has evaluated the potential for this project to cause an adverse effect -- either individually or cumulatively -- on wildlife resources. There is no evidence the proposed project would have any potential for adverse effect on wildlife resources. Based on this finding, a Certificate of Fee Exemption will be submitted with the Notice of Determination after project approval, as required by Public Resources Code section 21089 (see attachment to Draft Mitigated Negative Declaration). The Certificate of Fee Exemption allows the project to be exempted from the environmental review fee imposed by the California Department of Fish and Game.

PUBLIC NOTICE AND COMMENT:

Public hearing notification is applicable. A total of 268 notices were mailed to owners and occupants of property within 1000 feet of the site. The notices to owners and occupants were mailed on April 27, 2006. A Public Hearing Notice was published by The Argus on April 27, 2006.

In March 2006, staff also notified property owners and occupants within 1,000 feet of the project site to receive initial input on the proposal. Nearby residents indicated support for the project, while one adjacent industrial user opposed it. In a April 2006 letter (Informational 5), the adjacent industrial user, Eternal Electronics Corp. at 4156 Technology Place, cited concerns such as the development of the Church would have a negative impact on property values and use of their property over the long term, among other issues.

The proposed project is a conditionally permitted use in the Interim Study District (ISD), where in November 2005 the City Council reduced the quantities and types of hazardous materials to a lower level, similar to levels permitted in the Light Industrial District. At that time (and during the moratorium adopted for this area), numerous notices were sent to all affected properties located in the ISD, and no major concerns were received from property owners or the general public. Approval of the proposed project, therefore, would not further restrict Eternal Electronics from proposing such quantities and types of hazardous materials permitted in the ISD, as previously adopted in November 2005.

As recommended in the conditions, the Applicant is taking preventative measures to assure its compatibility with adjacent users. The ISD (or successor District) will ensure that nearby uses maintain compatible levels of hazardous materials.

ENCLOSURES:

<i>Exhibits:</i> Exhibit "A"	Site Plan, Floor Plans, Exterior Elevations, Roof Plans, Building Cross Sections, Preliminary Landscape Plan (Phase I and II)
Exhibit "B"	Findings and Conditions of Approval
Exhibit "C"	Applicant's "Schedule of Operations"
Exhibit "D"	Mitigated Negative Declaration and Mitigation Monitoring Program

Informational Items:

1. Jan. 2006 Northern California First Baptist Church letter indicating no private school proposed.
2. Initial Study
3. Mar. 2006 1,000-foot Notice for Initial Public Comments

4. Material and Color Board (displayed at hearing)
5. April 2006 Eternal Electronics Corp. letter
6. Color renderings of proposed facility

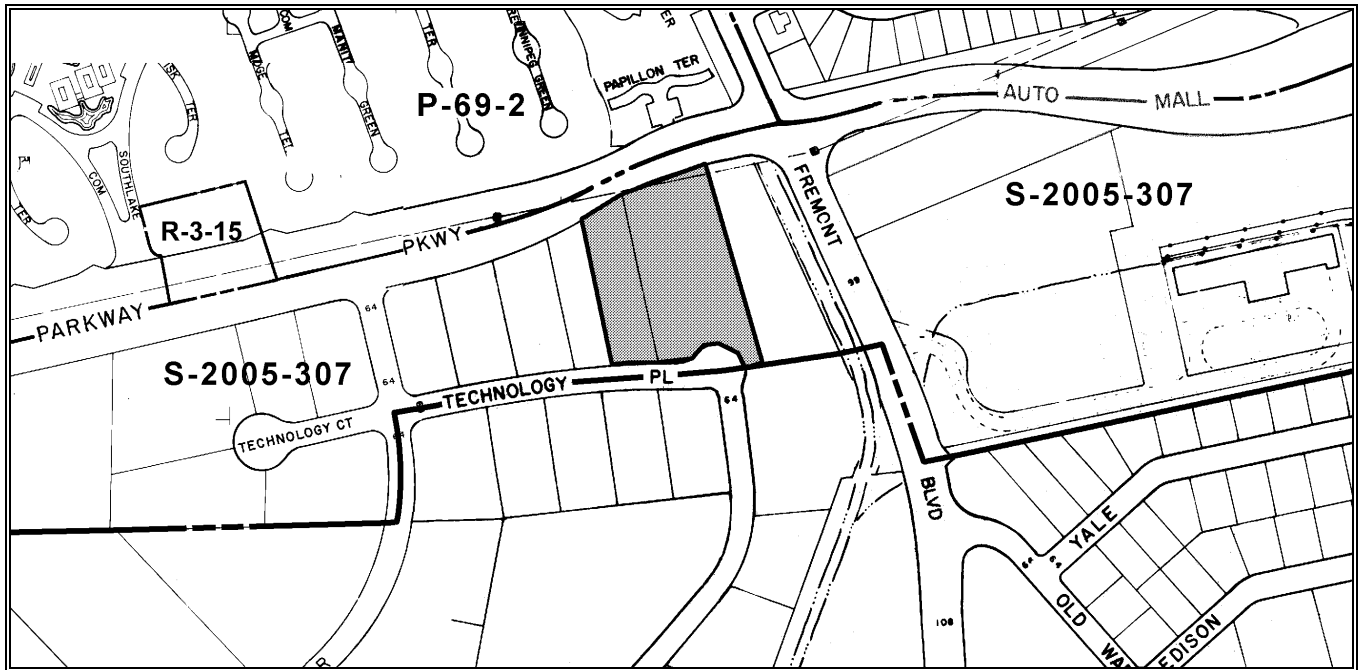
Supplemental Hearing Materials:

7. Full-size color renderings of proposed facility

RECOMMENDATION:

1. Hold public hearing.
2. Find the initial study has evaluated the potential for this project to cause an adverse effect -- either individually or cumulatively -- on wildlife resources. There is no evidence the proposed project would have any potential for adverse effect on wildlife resources.
3. Adopt Mitigated Negative Declaration and Mitigation Monitoring Program and recommend the use of a Certificate of Fee Exemption and find these actions reflect the independent judgment of the City of Fremont.
4. Find Conditional Use Permit PLN2006-00009 is in conformance with Land Use Policy 3.2 contained in the City's existing General Plan as discussed within the staff report.
5. Approve Conditional Use Permit PLN2006-00009, as shown on Exhibit "A" and Schedule of Operation shown on "Exhibit C", subject to findings and conditions on Exhibit "B".

Existing Zoning
Shaded Area represents the Project Site



Existing General Plan

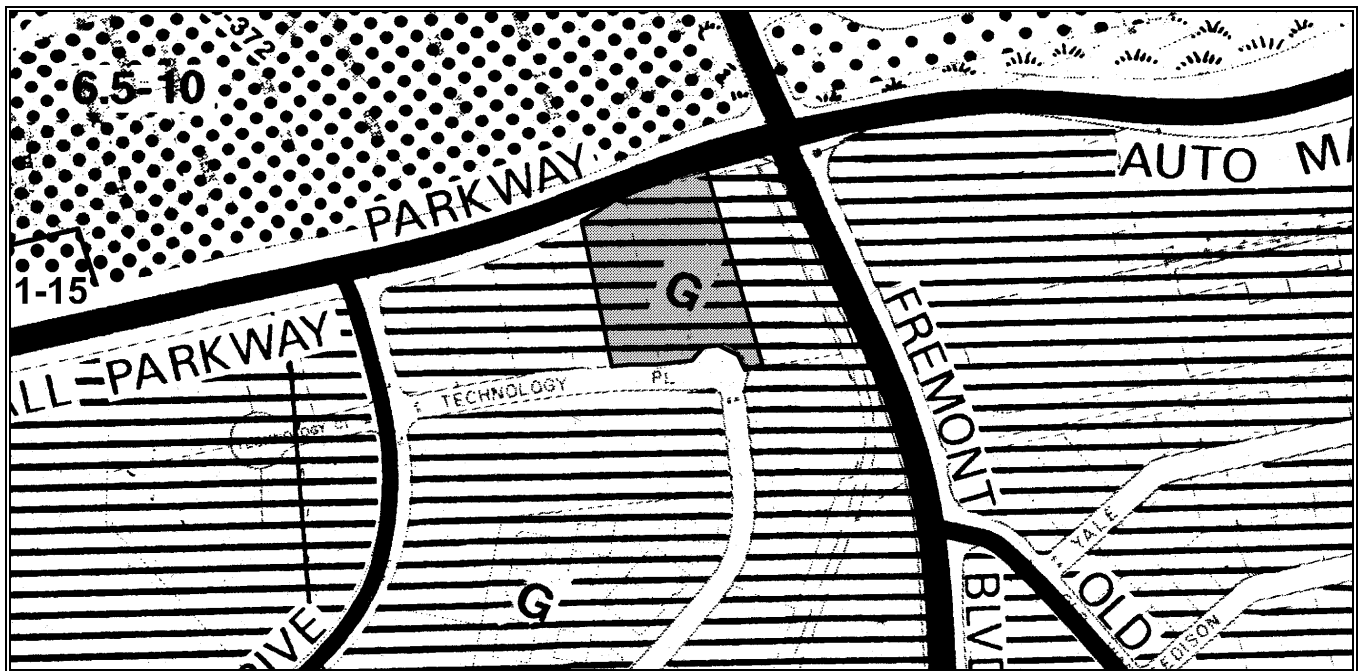


Exhibit "B"
Northern California First Baptist Church at 4130 Technology Place
(APNs 525-1250-065-00 and a portion of 525-1250-064-00)
Conditional Use Permit PLN2006-00009

Findings

The findings below are made on the basis of information contained in the staff report to the Planning Commission dated May 11, 2006, and testimony at the public hearing, incorporated hereby.

- a. The proposed use is consistent with the underlying, existing General Plan designation for the site, as non-industrial uses, such as the religious facility proposed, may be conditionally permitted in the Interim Study District as the project has convenient access to Interstate 680 and 880 via Auto Mall Pkwy. Through building and site design and the ongoing implementation of operational conditions, the proposed project will not conflict with existing, adjacent land uses.
- b. The site is suitable and adequate for the proposed use because sufficient information has been provided to demonstrate that the proposed operation will conform to ordinance requirements for uses within the Interim Study District. Additionally, the proposed project is subject to several conditions of approval that will ensure the operation of the use does not cause a hazard to its members or the public, or an adverse impact on the site or surrounding industrial and residential uses.
- c. The proposed use would not have a substantial adverse effect on vehicular (including bicycle) or pedestrian circulation or safety, on transit accessibility, on the planned level of service of the street system or other public facilities or services. Sufficient parking will be provided for the proposed project.
- d. The proposed use would not have a substantial adverse economic effect on nearby uses because the use will not compete against other industrial/commercial/retail uses proposed in the Interim Study District. During the proposed use's operation when a higher number of attendees are present there would not be a substantial impact on nearby uses.
- e. The proposed use would not be detrimental to the general welfare of persons residing in the immediate vicinity, the neighborhood, or the community at large because several safety administrative and mechanical measures will be implemented in the materials, design and operation of the religious facility, including a site-specific emergency response plan, specific building enhancements, a consolidated "shutdown" of the ventilation systems and an in-place communication system for notifying or providing instructions to occupants, among others.
- f. The design of the project is compatible with existing and proposed development within the Interim Study District and its surroundings because additional enhancements, such as textured paint, awnings, building articulation, to the "concrete tilt-up" structure are proposed to allow the design to be more appropriate and compatible with the District.

General Conditions (Must be satisfied on ongoing basis)

1. Approval of Conditional Use Permit PLN2006-00009 shall substantially comply with the site and building design shown on Exhibit "A", subject to compliance with all conditions included herein.
2. The proposed project is proposed in two phases. Phase I (33,651 s.f.) shall be completed with full landscaping and site improvements (e.g., landscaping, walkways, circulation and parking areas), functionally independent of Phase II. A temporary lawn reserved for area designated for the development of Phase II (19,363 s.f.), shall also include an underground automatic irrigation system during interim period in between the completion of Phase I and the commencement of construction in Phase II.
3. A Conditional Use Permit Certificate shall be issued for Phase I of the proposed development when all conditions for Phase I have been satisfied.
4. The development of Phase II shall occur within 5 years of the date of the issuance of a Conditional Use Permit Certificate (typically issued concurrently with certificate of building occupancy) for the completion of Phase I. The Planning Director may approve an extension of time for a period of no greater than five (5) years to allow additional time for the development of Phase II upon request. The Planning Director may take into consideration compliance with conditions of approval and other factors when s/he makes a determination in granting the extension. Additionally, the Planning Director may refer the matter back to the Planning Commission if surrounding conditions have substantially changed.
5. Minor modifications to the Conditional Use Permit may be made subject to review and approval of the Planning Director or his/her designee if such modifications are in keeping with the intent of the original approval. The Planning Director, however, may refer any modification to the Planning Commission when s/he feels that the request is of such a nature that it warrants consideration by the Planning Commission.
6. The Planning Director or his/her designee shall conduct a one (1) year review of the issued Conditional Use Permit Certificate from its initial date of issuance. The applicant, or successor in interest, shall submit a Finding application for the 1-year review and be responsible for the costs associated with completing the review.
7. Approval of PLN2006-00009 permits the main and ancillary uses in conformance with Exhibit "C". The hours specified for each use shall be generally within the times and locations shown on Exhibit "C". Modifications may be made to the Schedule of Operations, subject to review and approval of the Planning Director or his/her designee.
8. Mitigation measures are incorporated herein as conditions of approval. The applicant must successfully designed, implemented and be in compliance with the following during pre-, during- and post-construction:

Mitigation #1 (During Construction): To mitigate the identified air quality impacts of grading and construction, the following mitigation measures will be incorporated into the project:

Dust generated on the project site shall be controlled by watering all exposed areas at least twice daily during excavation, and especially during clearing and grading operations. Additional watering on windy or hot days is required to reduce dust emissions;

Cover stockpiles of sand, soil and similar materials with a tarp. Cover trucks hauling dirt or debris to avoid spillage;

Paving shall be completed as soon as is practicable to reduce the time that bare surfaces and soils are exposed. In areas where construction is delayed for an extended period of time, the ground shall be revegetated to minimize the generation of dust;

Designate a person to oversee the implementation of the dust control program; and,

During construction, streets adjacent to the project site that are used by construction vehicles shall be swept periodically to reduce dust.

Implementation of the above-stated mitigation measures will reduce the identified air quality impacts to a non-significant level.

Mitigation #2 (Pre-Construction): A site investigation is required to be completed, before the issuance of a grading permit, by a qualified wildlife biologist to determine the presence of burrowing owls. An additional investigation would be required thirty days prior to the commencement of any site grading or clean-up.

Mitigation #3 (During-Construction): Should any human remains or historical or unique archaeological resources be discovered during site development work, the provisions of CEQA Guidelines, Section 15064.5. (e) and (f) will be followed to reduce impacts to a non-significant level.

Mitigation #4 (Pre- and During Construction): All recommendations and criteria contained in the geotechnical and seismic hazards report (Feb. 2006) and supplemental letter-report (Apr. 2006) prepared by BSK Associates shall be adhered to and implemented in the design, development and construction of the project. The building plans shall include appropriate documentation demonstrating that the building design is sufficient to address the anticipated total and differential settlements without building collapse (See Condition #75 below).

Mitigation #5 (Pre-, During- and Post-Construction): All recommendations contained in the February 2006 Blymer offsite risk assessment report and recommendations of the Fire Department for the proposed project shall be adhered to and implemented in the design, development, construction and operation of the proposed project (See Condition #47 below).

9. A "Hazardous Materials Covenant and Agreement" shall be recorded against both parcels to restrict their use of hazardous materials. This will ensure that the reduced vacant parcel as a result of the LLA and the newly enlarged 3.49 project parcel for the Church will not contain any hazardous

materials in excess of levels permitted in the Light Industrial District. The City will provide such document that shall be executed by the applicant and property owner and recorded against both properties.

10. The current property owners and Church shall acknowledge and understand that the Religious Facility is located in the Interim Study District, that is generally adjacent to industrial users in an area that is potentially susceptible to exposure to or migration of hazardous materials and/or waste. An "Acknowledge of Risk" statement shall be recorded against the 3.49-acre Church parcel. In this document, the applicant/property owner shall also acknowledge that the operation of a private school is not permitted on the site. The City will provide such document that shall be executed by the applicant and property owner and recorded against the property.
11. The applicant shall be responsible for all personnel costs and incidental expenses required to enforce these conditions and/or additional safety measures to comply with these conditions. Personnel costs and incidental expenses shall include, but are not limited to Fire and Planning personnel, other City personnel and consultant costs, inspection and re-inspection fees, costs incurred in preparation and/or implementations of these conditions herein.
12. All activities shall take place in the interior of the building and no amplification of music or voice is allowed outside, other than those required as part of the emergency response program. In addition, sound as measured at the property line may not exceed a noise performance standard of 70 db(A).
13. Due to the project site's location adjacent to a recreational facility ("City Beach"), the applicant shall maintain signs stating "No loitering or consumption of alcoholic beverages" within all parking areas.
14. Parking lot to be posted with appropriate signs per 22658(A) CVC, to assist in removal of vehicles at the property manager's request.
15. The applicant shall maintain a minimum total of 229 parking spaces in compliance with the Fremont Municipal Code.
16. The project structure and required exiting for egress must comply with all local, state and federal building and fire code requirements.
17. Should additional safety measures be needed in order to address any public safety and health concerns arising from the religious facility's operation, the applicant shall provide those additional safety measures as requested by the City's Building and Fire Departments.
18. The property owner is responsible for litter control and for sweeping of all paved surfaces. Sidewalks, parking lots, and other paved areas must be swept regularly to prevent the accumulation of litter and debris. If pressure washed, debris must be trapped and collected to prevent entry into the storm drain system. No cleaning agent may be discharged to the storm drain.
19. The developer shall comply with the City's Urban Runoff Clean Water Program in accordance with the NPDES permit requirements issued by the State's Water Quality Control Board.

20. All landscaping shall be properly maintained and shall be designed with efficient irrigation practices to reduce runoff, promote surface filtration, and minimize the use of fertilizers and pesticides, which can contribute to runoff pollution.
21. All on-site storm drains must be cleaned at least once a year immediately prior to the rainy season. Additional cleaning may be required by the City of Fremont. All on-site storm drains must be cleaned at least once a year immediately prior to the rainy season. Additional cleaning may be required by the City of Fremont.
22. Parking lot and building landscaping shall be maintained at all times in good, aesthetically pleasing condition.
23. This report and its conditions as well as a Conditional Use Permit Certificate issued after successful compliance with the Conditions herein shall be kept on the premises and made available to any officer/employee of the City upon request.
24. If the Planning Director finds evidence that conditions of approval have not been fulfilled or that the use or uses has or have resulted in a substantial adverse effect on the health, and/or general welfare of users of adjacent or proximate property, or have a substantial adverse impact on public facilities or services, the Planning Director may refer the Conditional Use Permit to the Planning Commission for review. If, upon such review, the Commission finds that any of the results above have occurred, the Planning Commission shall modify or revoke the approval of the religious facility use.

Prior to Issuance of a Conditional Use Permit (Pre-Construction)

Planning Division—Building Design

25. The heavier and darker color treatment (shown as "Chutney" on plans) shall be applied in a larger area at the base to give the structure a stronger appearance of a more significant base.
26. [Omitted.]
27. The architect shall explore the possibility of including more vertical scoring ("v"-shaped reveals) to provide a stronger vertical appearance, consistent with the design of the steeple element.
28. The color treatment applied to the screening element on the roof shall be color treated to blend in with the color proposed at the top of the structure to be much less conspicuous, rather than darker as proposed.
29. The structure's windows placement shall all be recessed at least 4-inch, similar to the windows proposed on the wall at the main lobby entrance.
30. The structure's window ledges shall also be chamfered (beveled) similar with the windows proposed on the wall at the main lobby entrance.

31. The applicant shall explore the possibility of adding a cornice element, or other effective means, incorporated at the top of the structure's walls to provide stronger roof termination.
32. The round stainless steel covered columns flanking the main entrance shall be reevaluated in terms of shape for consistency with other elements of the structure. A square column should be considered.
33. Stainless steel cladding or an alternative color treatment shall also be considered for all awnings above doors and patio areas.
34. The treatment of all ancillary structures (e.g., trash/recycling enclosure) shall be consistent with the color treatment and materials of the facility.
35. All fire apparatus shall be concealed internally, except for those components as approved by the Fire Department.
36. All "pre-construction" conditions listed above under "General Conditions".

Planning Division—Site Design

37. All planter areas (generally at the ends of parking rows) shall meet the City standards (FMC 8-22009) free of inorganic material and measuring not less than six feet wide (or 7 feet curb face to curb face). Assuming 0.5-foot wide curbs, plans show planter widths of 5 feet. These planters shall be enlarged to meet this standard (See Landscaping below).
38. The City's Landscape Architect is the final authority on approval of the proposed street tree selection (Purple Robe Locust shown) during the Development Organization process (See Landscaping below).
39. Prior to issuance of a building permit, the applicant shall apply for and receive approval of a Lot Line Adjustment to reflect the proposed 3.49-acre project site area.
40. Prior to issuance of a building permit, the applicant shall apply for and receive approval of a Vacation of the existing Emergency Vehicle Access Easements (EVAE) that will no longer be needed. In lieu of the Vacation, new EVAEs shall be dedicated as required by the City Engineering and Fire Departments.

Engineering Division

41. The project plans shall identify Best Management Practices (BMPs) appropriate to the uses conducted on-site to effectively prohibit the entry of pollutants into storm water runoff. The plans will also include storm water measures for operation and maintenance of the project.
42. For air conditioning units, air conditioning condensate should be directed to landscaped areas or alternatively connected to the sanitary sewer system after obtaining permission from Union Sanitary District. Any anti-algal or descaling agents must be properly disposed of. Any air conditioning condensate that discharges to land without flowing to a storm drain may be subject to the requirements of the State Water Resources Control Board's (SWRCB) Statewide General Waste Discharge Requirements (WDRs) for Discharges to Land with a Low Threat to Water Quality.

43. Roof drains shall discharge and drain away from the building foundation to an unpaved area wherever practicable.
44. Interior floor drains in kitchen areas shall be plumbed to the sanitary sewer system and shall not be connected to the storm drain system. The applicant shall contact Union Sanitary District for specific connection and discharge requirements.
45. Outdoor cleaning areas shall be designed to prevent stormwater run-on from entering the sanitary sewer and to prevent stormwater run-off from carrying pollutants to the storm drain. Signs shall be posted indicating that all food service equipment washing activities shall be conducted in this area. The applicant shall contact Union Sanitary District for specific connection and discharge requirements.
46. The property owner shall prepare and implement a plan for pavement sweeping and cleaning of all storm drain inlets.
47. The buildings, including foundations and utility connections, shall be designed in accordance with the project preliminary geotechnical report by BSK Associates, dated February 21, 2006, and the supplemental letter by BSK Associates, dated April 4, 2006. Copies of the project geotechnical report, supplemental letter, and City peer review letters, shall be submitted with the first plan check of the foundation design and structural calculations.
48. Precise geometry and location of all driveways shall be subject to approval of the City Engineer.
49. The applicant shall provide for a functional system to control erosion and siltation during and after grading subject to review and approval by the City Engineer. An erosion and sediment control plan shall be included as part of the grading plans.
50. A disposal site for the off-site haul dirt materials or source for the import fill shall be approved by the City prior to the approval of the grading permit. The off-site haul truck route for the excess dirt or import fill shall be subject to the approval of the City Engineer.
51. Prior to issuance of a permit for land disturbance greater than one acre, the developer is to provide evidence that a Notice of Intent has been filed and with the State of California Water Resources Control Board. Evidence shall include the WDID number assigned by the State. The developer is responsible for insuring that all contractors are aware of all storm water quality measures contained in the Storm Water Pollution Prevention Plan (SWPPP).
52. Proposed curb elevations for the street system shall not be less than 1.25 feet above the hydraulic grade line (design water surface) and at no point should the curb grade be below the energy grade line. On-site grades are to be a minimum of 0.75 feet above the hydraulic grade line.

Landscape Division

53. Street tree planting is required on Technology Place. Street trees shall be planted from 24" box size in accordance with City Standard Tree Planting Detail LSD-1. Species selection is subject to review and approval of the City's Urban Landscape Supervisor.

54. The 20' wide landscape easement at Automall Parkway shall be planted with a minimum of 9 each of Chinese Pistache trees from 24" box size.
55. Species selection of trees under the PG&E easement shall be subject to PG&E approval.
56. The temporary lawn area (for future Phase II) shall include the installation of an underground automatic irrigation system.
57. Further details of future site improvements that are currently shown for Phase II shall be subject to review and approval of the Development Organization staff review at time of Phase II Building Permit review.
58. All parking lot planters to have a minimum 6' clear planting area (7' face of curb to face of curb).
59. Utility plans submitted for Development Organization review shall include an overlay of proposed trees in order to prevent conflicts with storm, sewer and other utilities.
60. Branches from mature trees may not overhang buildings and roofs. Adequate space to plant trees adjacent to buildings or other built features must be provided in the following minimum ways:
 - a) Small trees (to 15 feet tall) no closer than 6 feet from building or 2 feet from paving, curbs, or walls with a minimum planting area 5 feet wide.
 - b) Medium trees (to 30 feet tall) no closer than 10 feet from building or 3 feet from paving, curbs, or walls with a minimum planting area 6 feet wide.
 - c) Large trees (above 30 feet tall) no closer than 15 feet from building or 3 feet from paving, curbs, or walls with a minimum planting area 6 feet wide, preferably 8 feet wide.
61. All planting areas containing trees shall be free of all Utility Structures (including light standards) and other built features consistent with the spacing requirements of City Standard Detail LSD-5 City Standard Street Tree Clearances. In order to install all the trees shown on the Landscape Plan, utilities may require relocation subject to staff approval during Tract Improvement Plan Review.
62. Landscape plans shall be submitted with Final Map Improvement Plans for review and approval, indicating full details regarding (1) paving materials and textures of walkways and paved pedestrian areas, (2) lighting of walkways and pedestrian areas with low intensity non-glare type fixtures, and (3) landscaping of site and open areas. As part of the landscape plans the applicant shall submit:
 - a) An underground irrigation plan.
 - b) A lighting plan for the illumination of the building, pedestrian and parking areas. Type of lighting fixtures, their heights, intensity and direction shall be clearly indicated.
 - c) Construction details of raised planters, walkways, paths, benches, walls, fences, trellises, and other architectural features as appropriate to the project.

63. The final Building Permit plans as approved through the Development Organization review process shall include, as reference, the Landscape Plans approved through Tract Improvement Plan Review.
64. All provisions of the City of Fremont Landscape Development Requirements and Policies (LDRP) shall apply to this project unless otherwise approved by the City Landscape Architect. A current copy of the LDRP can be obtained at the Engineering Counter.

Fire Department

65. The applicant shall meet all requirements in the 2001 California Fire Code and local Ordinance #2485.
66. Information shall be provided regarding the fire flow information for site. Please contact Jose Rodriguez with the Alameda County Water District at 510-668-4419 to obtain information.
67. The applicant shall install a fire sprinkler and fire alarm system complying with local amendments.
68. The applicant shall provide for approval a site plan/ Civil Utility Plan with the location of public, on-site fire hydrants and Fire Department Connections location(s). The fire hydrant spacing requirement is 300 feet spacing.
69. The applicant shall comply with Fremont code requirements for installation of fire retardant roof coverings.
70. An acceptable Emergency Vehicle Access Easement to site shall be provided.
71. The applicant shall provide a 20 ft wide all weather surface (paving) for emergency vehicle access within 150 feet of all construction or combustible storage. This access shall be provided before any construction or combustible storage will be allowed. CFC 901.3, C.F.C 903.2. and C.F.C 903.3.
72. The applicant shall provide the fire hydrant required fire flow on site prior to construction or storage of combustible materials. C.F.C 903.2 & Appendix IIIA. Fire hydrant jumper lines must be at least 6 inches in diameter. This must be completed and inspected before any construction or material storage will be allowed.
73. Address must always be visible from Public Street. The applicant shall provide a site map showing private driveway entrances.
74. The Fire Department access roadway shall have a minimum 20 foot unobstructed linear width. The driveways/access roads shall be designated as Fire Lanes. Driveway /access roads and shall meet Fire Department standards for surface type, distance, weight loads, turn radius, grades, and vertical clearance. Approved turnarounds shall be required for distances over 150 feet from public streets. Other mitigation's shall/may be required in addition to those listed. (CFC Sec. 902.2 as amended) The applicant shall indicate on all site plans the location of required red curbs, curb lettering and fire lane signs. This project requires all curbs to be red, lettering every 30 feet and signs every 100 feet.

HAZARDOUS MATERIALS UNIT:

75. **The applicant shall implement the recommendations embedded in the February 2006 Blymer Engineering, Inc.'s Offsite Risk Assessment Report and all recommendations required by the Fire Department. Collectively, these conditions include, but are not limited to:**
- a. **A site-specific emergency response plan,;**
 - b. **Informing both Glacier Ice and Hayward Quartz Technology to incorporate the Church's day-time and night-time contact information into their emergency response programs;**
 - c. **Based on recommendation of Blymer Engineering, design the structure to include window coverings or glass treatment/coatings to minimize glass shard migration in the unlikely event that an explosion occurs (i.e., from the liquid hydrogen).**
 - d. **Including a consolidated "shutdown" of the ventilation systems in the building design; and,**
 - e. **Including an in-place communication system for notifying or providing instructions to occupants.**
76. The applicant shall comply with the provisions of the permits required from any state or regional agencies, including, but not limited to, the Bay Area Air Quality Management District (BAAQMD), Regional Water Quality Control Board (RWQCB), Union Sanitary District's (USD) POTW and the Alameda County Department of Environmental Health.
77. The applicant must immediately notify the Fremont Fire Department, Hazardous Materials Unit of any underground pipes, tanks or structures; any suspected or actual contaminated soils; or other environmental anomalies encountered during site development activities. Any confirmed environmental liabilities will need to be remedied prior to proceeding with site development.

Environmental Services

78. **Trash and recycling enclosures:** There are two trash enclosures noted on the plans. Given the final proposed size of the facility and the types of activities (including assemblies, education and a dining hall), this should be sufficient. The location of the enclosures could be improved, making them more accessible to church staff and to collection vehicles. The final location and design of the enclosures will be subject to review and approval of Development Organization staff.
79. **Trash/Recycling Enclosures:** Phase 2 of this development requires the additional exterior storage for trash and recycling noted on the plans, for a total capacity of at least 446 square feet. The enclosures must meet the requirements of FMC Section 8-22155, and of the City's Waste Handling & Recycling Requirements and policies.
80. When siting new trash enclosures, their accessibility to collection vehicles and to the staff that will be using them must be considered. Locating the enclosures close to the church building, and directly accessible from the front to collection trucks shall be considered. This positioning will minimize push-pull fees and extra service costs.
81. Because there will be food prepared on the property, the trash enclosure where food waste is disposed must have a full roof, not the partial roof indicated on the plans, as required per the City's Clean Water regulations.

82. **Debris Disposal & Recycling:** The applicant is required to document construction and demolition debris resulting from this project. The City of Fremont **Waste Handling Plan** and **Waste Disposal Report** forms shall be completed and submitted to Development Organization staff before and after the work is completed.

During Construction

83. A professional engineer, registered in the State of California, shall be retained to prepare the final grading plan. Upon completion of the grading, a letter shall be submitted to the Development Organization that the as-built grading is in compliance with the approved grading plan.
84. The developer is responsible for ensuring that all contractors and subcontractors are aware of all storm water quality measures and implement such measures. Failure to comply with the approved construction Best Management Practices will result in the issuance of correction notices, citations, or stop orders.
85. All public and private storm drain inlets are to be stenciled "No Dumping - Drains to Bay" using thermoplastic stencils purchased from the City of Fremont Maintenance Division.
86. Fire sprinkler test water shall be drained to the sanitary sewer system with approval from Union Sanitary District or drain to landscaped areas where feasible. The applicant shall contact Union Sanitary District for specific connection and discharge requirements.
87. Grading operations shall be in accordance with recommendations contained in the project geotechnical report and shall be supervised by an engineer registered in the State of California to do such work.
88. Prior to the application of the textured paint coat over the concrete tilt-up walls, the project manager or supervising general contractor shall contact the Development Organization at (510) 494-4561 for an interim inspection by Planning Division staff of the structure to ensure that the construction is consistent with the approved architecture and building design.
89. Construction hours shall be limited in accordance with Section 8-2205 of the Fremont Municipal Code, and notes to this effect shall be placed on the cover sheet of the construction plans and on an all-weather notice board (format and content specified by City) conspicuously placed adjacent to the most visible right of way for the duration of the construction activity as follows:
- a. Monday-Friday, 7 a.m. to 7 p.m.
 - b. Saturday & Holiday, 9 a.m. to 6 p.m.
 - c. Sunday, no construction activity allowed
90. Compliance with all conditions listed above under "General Conditions" relating to during construction' mitigation measures.

Post Construction Final Occupancy Conditions (Must be satisfied prior to occupancy.)

91. A professional engineer registered in the State of California shall be retained to prepare a final grading plan, and upon the completion of the grading submit to the Development Organization a statement that the as-built grading conditions do not deviate from the approved plan by more than one foot of vertical elevation, subject to the review and approval of staff prior to the issuance of occupancy permits for each structure.
92. Prior to building occupancy, the project civil engineer shall submit a statement certifying that the installations of all post-construction stormwater treatment controls have been done properly and are in working order.
93. The project architect shall submit a letter to the City certifying that the buildings have been constructed in conformance with the approved architectural plans, subject to the review and approval of the Development Organization.
94. The project landscape architect shall submit a letter to the City certifying that the on-site and streetscape (ROW) landscaping have been constructed in conformance with the approved landscape and irrigation plan, subject to the review and approval of the Development Organization.
95. All projects that incorporate post-construction stormwater treatment controls shall enter into an agreement with the City of Fremont to operate and maintain said treatment controls in perpetuity. The Operation and Maintenance Agreement is a legal document and is recorded on the title of the property. Responsibility for the Operation and Maintenance Agreement shall be legally transferred to all subsequent property owners.
96. Compliance with all conditions listed above under "General Conditions" relating to 'post-construction' mitigation measures (e.g., emergency response action, erosion control, etc.).